

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code chapter 249G, Iowa Code sections 505.8, 522B.18 and 514G.111, Iowa Code section 514H.9 as amended by 2009 Iowa Acts, House File 723, section 21, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, the Insurance Division hereby amends Chapter 39, “Long-Term Care Insurance,” and Chapter 72, “Long-Term Care Asset Preservation Program,” Iowa Administrative Code.

The rules in Chapter 39 implement Iowa Code chapter 514G to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverage, and to facilitate flexibility and innovation in the development of long-term care insurance.

The amendments to Chapter 39 add new Division III, which implements Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, to establish, in conjunction with the Iowa Department of Human Services, a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and Iowa Medicaid. The amendments also change the training required of insurance producers who wish to sell long-term care insurance to include training regarding the long-term care partnership program. The amendments change the term “agent” to “producer,” where appropriate, to be consistent with other chapters in the Iowa Code and Iowa Administrative Code, particularly Iowa Code chapter 422B and 191—Chapters 10 and 11. Finally, the amendments prohibit the issuance of insurance policies under the Iowa long-term care asset preservation program in 191—Chapter 72 on or after January 1, 2010. The amendments will become effective December 9, 2009, and insurance companies and producers shall comply with the long-term care insurance rules beginning January 1, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8132B**. A public hearing was held on October 1, 2009, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments were received, and changes to the proposed amendments were made as follows:

A request was made to extend the effective date of subrule 39.15(4) to July 1, 2010. After discussion of the concerns that led to that request, it was decided to change the compliance date of subparagraph 39.15(4)“c”(1) from December 9, 2009, to January 1, 2010.

A request was made to delete numbered paragraphs “15” and “16” from the list in subparagraph 39.15(4)“c”(2) because they are redundant. That change was made.

A request was made to delete numbered paragraph “15” of the current outline of coverage set forth in subrule 39.18(9), to renumber paragraph “16” as “15,” and to change the word “ASSISTANCE” to “INFORMATION” to reflect the correct title of the program. Those changes were made.

A request was made to insert “partnership” before “policies” in rule 191—39.76(514H,83GA,HF723). That change was made.

A request was made to move the definitions of “CE” and “CE provider” in rule 191—39.77(514H,83GA,HF723) to rule 191—39.4(514G) because the terms are used earlier in the chapter. Instead, the definitions were added to subrule 39.15(4), the only subrule in which the terms are used.

After discussions with interested parties about the exchange process set forth in rule 191—39.82(514H,83GA,HF723), the Division added a time limit to subrule 39.82(1) during which an insurer must make the exchange offer.

An incorrect reference in paragraph 39.82(2)“g” was changed from 39.82(2)“a” to the correct reference, 39.82(1).

A request was made to amend the language related to the notice “required by the state of Iowa” in subrule 39.83(1). That change was made, and the language now includes a reference to new Appendix J.

A request was made to delete rule 191—39.84(514H,83GA,HF723). Subrules 39.84(2), 39.84(3) and 39.84(4) were deleted, and the references within the deleted subrules to long-term care partnership policies were added to subrule 39.15(4) where appropriate. The text of subrule 39.84(1) was retained and has been renumbered as rule 191—39.84(514H,83GA,HF723).

A request was made to move most of the content of proposed rule 191—39.85(514H,83GA,HF723) into rule 191—39.15(514D,514G). Some of the content of rule 191—39.85(514H,83GA,HF723) that was not duplicative of prior subrule language was incorporated into new paragraph 39.15(4)“f.”

A request was made to delete the title of the reporting requirements set forth in proposed subrule 39.86(1) and to modify the requirements for the report to be provided to consumers under proposed subrule 39.86(2). Those changes were made.

A new Appendix J has been added because the changes made to proposed subrule 39.83(1) required it.

Generally, the item numbers and rule numbers were changed to reflect the changes described above, and other nonsubstantive editorial changes were made.

These amendments will become effective December 9, 2009.

These amendments are intended to implement Iowa Code chapters 514G and 522B, Iowa Code section 514G.111, Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171.

The following amendments are adopted.

ITEM 1. Amend subrule 39.6(7), introductory paragraph, as follows:

39.6(7) *Electronic enrollment for group policies.* In the case of a group defined in Iowa Code section 514G.4(4), any requirement that a signature of an insured be obtained by ~~an agent~~ a producer or insurer shall be deemed satisfied if:

ITEM 2. Amend subrule 39.11(1), introductory paragraph, as follows:

39.11(1) Application forms shall include the following questions designed to elicit information whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and ~~agent~~ producer, except where the coverage is sold without ~~an agent~~ a producer, containing such questions may be used. With regard to a replacement policy issued to a group defined by Iowa Code section 514G.4(5) “a,” the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement.

ITEM 3. Amend subrule 39.11(2), introductory paragraph, as follows:

39.11(2) ~~Agents~~ Producers shall list any other health insurance policies they have sold to the applicant.

ITEM 4. Strike “agent” wherever it appears in subrules **39.11(3)** and **39.11(4)** and insert “producer” in lieu thereof.

ITEM 5. Amend paragraph **39.15(1)“a”** as follows:

a. Establish marketing procedures to ensure that any comparison of policies by its ~~agents~~ producers or by other producers will be fair and accurate.

ITEM 6. Amend paragraph **39.15(2)“c”** as follows:

c. *Cold-lead advertising.* Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance ~~agent~~ producer or insurance company.

ITEM 7. Amend subparagraph **39.15(3)“b”(5)**, numbered paragraph “2,” as follows:

2. Actively monitor the marketing efforts of the insurer and its agents producers; and

ITEM 8. Rescind subrule 39.15(4) and adopt the following new subrule in lieu thereof:

39.15(4) Producer training requirements.

a. Purpose. The purpose of this subrule is to require certain specific minimum training for insurance producers who wish to sell long-term care insurance or long-term care partnership insurance in Iowa. This additional training is necessary due to the complex nature of long-term care insurance and long-term care partnership insurance products. This additional training is also necessary to ensure that insurance producers are able to determine whether long-term care insurance or long-term care partnership insurance products are suitable for consumers and that producers are able to adequately explain to consumers how the long-term care insurance and long-term care partnership insurance products work. The ultimate goal of this subrule is to ensure that purchasers of long-term care insurance and long-term care partnership insurance products understand basic features of the products.

(1) This subrule applies to all long-term care insurance and long-term care partnership insurance products sold on or after January 1, 2010.

(2) For purposes of this subrule, “CE,” “CE provider,” “CE term” and “credit” shall mean the same as defined in rule 191—11.2(505,522B).

b. Required training.

(1) An individual may not sell, solicit or negotiate long-term care insurance or long-term care partnership insurance products unless the individual is licensed as an insurance producer with an accident and health or sickness line of authority and has completed a one-time training course and ongoing training every CE term thereafter. The training shall meet the requirements set forth in paragraph 39.15(4)“c.”

(2) The training content of paragraph 39.15(4)“c” must be approved as continuing education courses under 191—Chapter 11, except that the one-time training required under subparagraph 39.15(4)“b”(1) must be classroom training. However, a CE provider may apply directly to the division and request that a self-study or on-line course be approved as a substitute. Ongoing training may be by any means allowable under 191—Chapter 11.

c. Training content.

(1) The one-time training required by this subrule shall be no less than eight credits and the ongoing training required by this subrule shall be no less than four credits, except that producers who have completed four credits of long-term care insurance training prior to January 1, 2010, shall complete only four credits of one-time training specifically related to the long-term care partnership program and Iowa-specific Medicaid requirements.

(2) The training required under subparagraph (1) shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership programs, including, but not limited to:

1. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid requirements;

2. Available long-term care services and providers;

3. Changes or improvements in long-term care services or providers;

4. Alternatives to the purchase of private long-term care insurance or long-term care partnership insurance;

5. The effect of inflation on benefits and the importance of inflation protection;

6. Consumer suitability standards and guidelines;

7. The Deficit Reduction Act;

8. Iowa’s laws regarding the long-term care partnership program;

9. The Iowa Medicaid program;

10. Miller trusts;

11. Spousal protection;

12. Transfer of assets;

13. Estate recovery; and

14. Eligibility.

(3) Unless otherwise required by state or federal law, the training required by this subrule shall not include training that is specific to a single insurer or company product and shall not include any sales or marketing information, materials, or training, other than those required by state or federal law.

d. Requirements for insurers.

(1) Insurers subject to this chapter shall obtain verification that a producer has received training required by subparagraph 39.15(4) “b”(1) before a producer is permitted to sell, solicit or negotiate the insurer’s long-term care insurance or long-term care partnership insurance products; shall make verifications available to the division upon request; and shall maintain records subject to the state’s record retention requirements.

(2) Each insurer subject to this chapter shall maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the division to provide assurance to the Iowa department of human services that producers have received the training set forth in subparagraph 39.15(4) “c”(2), numbered paragraph “1,” as required by subparagraph 39.15(4) “b”(1) and that producers have demonstrated an understanding of the partnership policies and the policies’ relationship to public and private coverage of long-term care, including Medicaid, in this state. These records shall be maintained in accordance with the state’s record retention requirements and shall be made available to the division upon request.

e. Training obtained in other states. The satisfaction of the training requirements in any state shall be deemed to satisfy the training requirements in this state.

f. Requirements for continuing education providers to provide long-term care partnership insurance training. In addition to having been approved as a CE provider under rule 191—11.9(505,522B), a CE provider intending to provide either the initial training or the ongoing continuing education required under subrule 39.15(4) shall:

(1) Provide only classroom training for the initial one-time training for providers. However, the CE provider may apply directly to the division and request that a self-study or on-line course be approved as a substitute. Ongoing training may be by any means allowable under 191—Chapter 11.

(2) If approved, comply with rules 191—11.10(505,522B) and 191—11.11(505,522B).

ITEM 9. Amend paragraph **39.16(2)“b”** as follows:

b. Train its agents producers in the use of its suitability standards; and

ITEM 10. Amend subrule 39.16(3), introductory paragraph, as follows:

39.16(3) To determine whether the applicant meets the standards developed by the issuer, the agent producer and issuer shall develop procedures that take into consideration the following:

ITEM 11. Amend subrule 39.16(4) as follows:

39.16(4) The issuer, and, when ~~an agent~~ a producer is involved, the ~~agent producer~~, shall make reasonable efforts to obtain the information set out in subrule 39.16(3). The efforts shall include presentation of the “Long-Term Care Insurance Personal Worksheet” to the applicant, at the time of or prior to application. The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12-point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer’s personal worksheet shall be filed with the commissioner.

A completed personal worksheet shall be returned to the issuer prior to the issuer’s consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

The sale or dissemination outside the company or agency by the issuer or agent producer of information obtained through the personal worksheet in Appendix B is prohibited.

ITEM 12. Amend subrule 39.16(6) as follows:

39.16(6) Agents Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance.

ITEM 13. Amend subrule 39.18(2) as follows:

39.18(2) In the case of agent producer solicitations, ~~an agent~~ a producer must deliver the outline of coverage prior to the presentation of an application or enrollment form.

ITEM 14. Amend subrule **39.18(9)**, numbered paragraphs “7,” “15” and “16” of the outline of coverage, as follows:

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer’s Guide available from the insurance company.

(a) [For agents producers] Neither [insert company name] nor its agents producers represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

~~15. This policy does not qualify for Medicaid asset protection under the Iowa Long-Term Care Asset Preservation Program. However, this policy is an approved Long-Term Care Insurance Policy under state regulations. For information about policies and certificates qualifying under the Iowa Long-Term Care Asset Preservation Program, contact the Senior Health Insurance Information Program of the Insurance Division at 1-800-351-4664.**~~

~~16~~ 15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE INFORMATION PROGRAM (800-351-4664)** IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

~~**Outlines of coverage must be updated to include the listed number for the Senior Health Insurance Information Program no later than August 1, 2003. Insurers may continue to use Outlines that list the telephone number of 515-281-5705 until July 31, 2003.~~

ITEM 15. Amend paragraph **39.19(1)“a”** as follows:

a. In the case of agent producer solicitations, ~~an agent~~ a producer must deliver the shopper’s guide to the applicant at the time of application.

ITEM 16. Amend subrule 39.24(4) as follows:

39.24(4) No long-term care insurance policy or certificate may be field-issued based on medical or health status. For purposes of this subrule, “field-issued” means a policy or certificate issued by ~~an agent~~ a producer or a third-party administrator pursuant to the underwriting authority granted to the agent producer or third-party administrator by an insurer.

ITEM 17. Amend rule 191—39.27(514G) as follows:

191—39.27(514G) Reporting requirements.

39.27(1) Every insurer shall maintain for each agent producer records of that agent’s producer’s amount of replacement sales as a percent of the agent’s producer’s total annual sales and the amount of lapses of long-term care insurance policies sold by the agent producer as a percent of the agent’s producer’s total annual sales.

39.27(2) Every insurer shall report annually by June 30 the 10 percent of its agents producers with the greatest percentages of lapses and replacements as measured by subrule 39.27(1) in the format prescribed in Appendix G.

39.27(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent producer activities regarding the sale of long-term care insurance.

39.27(4) to 39.27(8) No change.

ITEM 18. Reserve rules **191—39.56** to **191—39.74**.

ITEM 19. Adopt the following new division heading in **191—Chapter 39**:

DIVISION III
LONG-TERM CARE PARTNERSHIP PROGRAM

ITEM 20. Adopt the following new rules 191—39.75(514H,83GA,HF723) to 191—39.85(514H,83GA,HF723):

191—39.75(514H,83GA,HF723) Purpose.

39.75(1) This division is intended to implement Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, to establish, in conjunction with the department of human services, a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and Iowa Medicaid.

39.75(2) The Iowa long-term care partnership program shall:

- a. Provide incentive for individuals to insure against the costs of providing for long-term care needs;
- b. Provide a mechanism for individuals to qualify for coverage under Iowa Medicaid while having certain assets disregarded for eligibility determinations and recovery; and
- c. Reduce the financial burden on the state's Medicaid program by encouraging the pursuit of private initiatives using qualified long-term care partnership policies or certificates.

191—39.76(514H,83GA,HF723) Effective date. The rules in this division shall apply to all long-term care partnership policies or certificates sold or issued for delivery on or after January 1, 2010.

191—39.77(514H,83GA,HF723) Definitions. For purposes of this division, the definitions in Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and the definitions in rule 191—39.4(514G) shall apply. In addition, the following definitions shall apply:

“Asset disregard” means, with regard to the state's Medicaid program, disregarding assets in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care partnership policy.

“Division” means the Iowa insurance division.

“Iowa long-term care partnership policy” or *“partnership policy”* means an insurance policy that meets the following requirements:

1. The policy covers an insured who, when coverage first became effective under the policy, was a resident of Iowa or was an individual eligible under subrule 39.78(2).
2. The policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986 and was issued no earlier than January 1, 2010.
3. The policy meets all of the applicable requirements of this chapter and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.
4. The division has certified the policy as meeting the requirements of the following: Section 1917(b) of the Social Security Act, 42 U.S.C. 1396p; Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171; and any applicable federal regulations or guidelines.
5. The policy provides the following inflation protections:
 - For a person who is less than 61 years of age as of the date of purchase of the policy or date of issuance of the certificate, the policy provides either annual compounded inflation protection of not less than 3 percent or annual compounded inflation protection of not less than a rate based on changes in the consumer price index. “Consumer price index” means consumer price index for all urban consumers, U.S. city average, all items, as determined by the Bureau of Labor Statistics of the United States Department of Labor.
 - For a person who is at least 61 years of age but less than 76 years of age as of the date of purchase of the policy or date of issuance of the certificate, the policy provides either an inflation feature

that meets the requirements of this definition, paragraph “5,” first bulleted paragraph, or an automatic inflation feature that provides annual simple inflation increases at a rate of not less than 3 percent.

- For a person who is at least 76 years of age as of the date of purchase of the policy or date of issuance of the certificate, an inflation protection feature may be included in the policy but is not required.

“*Long-term care partnership program*” means a qualified state long-term care insurance partnership as defined in Section 1917(b) of the Social Security Act, 42 U.S.C. 1396p; Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171; and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

“*Medicaid*” means the program of medical assistance operated by the Iowa department of human services under Title XIX of the federal Social Security Act, 42 U.S.C. 1396 et seq., and amendments thereto.

191—39.78(514H,83GA,HF723) Eligibility.

39.78(1) An individual who is a beneficiary of an Iowa long-term care partnership policy or certificate may be eligible for assistance under the state’s Medicaid program using the asset disregard as provided under Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

39.78(2) An individual who is a beneficiary of a long-term care partnership policy or certificate issued in another state which grants reciprocity to an Iowan who moves to that state is eligible for benefits under Iowa’s Medicaid program using the asset disregard as provided in Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723. For purposes of this subrule, “reciprocity” means the granting of all the benefits by one state to an individual who becomes a resident of that state but who purchased a long-term care partnership policy while residing in another state.

191—39.79(514H,83GA,HF723) Discontinuance of partnership program. If the Iowa long-term care partnership program established by this division and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, is discontinued, any individual who purchased an Iowa long-term care partnership policy or certificate before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by Title VI, Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171.

191—39.80(514H,83GA,HF723) Required disclosures.

39.80(1) An insurer or a producer soliciting or offering to sell a partnership policy shall provide to each prospective applicant a Partnership Program Notice. The notice must be substantially similar to Appendix H of this chapter. The Partnership Program Notice shall be provided with the required outline of coverage.

39.80(2) An insurer or a producer soliciting or offering to sell a partnership policy shall provide to each prospective applicant a copy of the Iowa Long-Term Care Partnership Program Consumer Guide. The Iowa Long-Term Care Partnership Program Consumer Guide form may be found on the division’s Web site, www.iid.state.ia.us.

39.80(3) A partnership policy or certificate issued or issued for delivery in Iowa shall be accompanied by a Partnership Status Disclosure Notice (Appendix I). A similar notice may be used if filed with and approved by the division.

191—39.81(514H,83GA,HF723) Form filings.

39.81(1) A partnership policy shall not be issued or issued for delivery in Iowa unless filed with and approved by the division. Any policy submitted for certification as a partnership policy shall be accompanied by a Partnership Issuer Certification. The Partnership Issuer Certification form may be found on the division’s Web site, www.iid.state.ia.us. Insurance companies required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division’s requirements, including both the Iowa general instructions and the specific

submission requirements for the type of insurance for which the companies are submitting forms or rates, as set forth on the SERFF Web site at www.serff.org.

39.81(2) Insurers may request to make use of a previously approved policy form as a qualified state long-term care partnership policy. Requests shall be filed electronically via SERFF and according to instructions on the SERFF Web site.

191—39.82(514H,83GA,HF723) Exchanges.

39.82(1) An insurer must offer, on a one-time basis, in writing, to all existing policyholders that were issued long-term care policies between February 1, 2003, and January 1, 2010, the option to exchange their existing long-term care policies for an Iowa long-term care partnership policy. The insurer must make this offer within 18 months of the date the insurer begins the first marketing efforts for any long-term care partnership insurance product.

39.82(2) Under an exchange program, an insurer must comply with all of the following:

a. The mandatory offer of an exchange shall apply only to products issued by the insurer that are comparable to the type of policy, such as group policies and individual policies, and to the policy series that the company has certified as partnership-qualified.

b. An insurer must provide the insured a minimum of 90 days from the date of mailing of the offer by the insurer to accept or reject the offer.

c. An insurer must make the offer on a nondiscriminatory basis without regard to the age or health status of the insured. However, the insurer may underwrite if the policy is amended to provide additional benefits or if the exchange would require the issuance of a new policy, except as described in paragraph 39.82(2)“*d*” below. Any portion of the policy that was issued prior to the exchange date shall be priced based on the policyholder’s age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder’s age at the time of the exchange.

d. If there is no change in coverage that is material to the risk, policies exchanged under this rule shall not be subject to any medical underwriting.

e. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the policy or certificate being replaced.

f. Any portion of the policy that was issued prior to the exchange date shall maintain the policy’s original price based on the policyholder’s age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder’s age at the time of the exchange.

g. When the policy is issued to a group, the offer required in subrule 39.82(1) shall be made to the group policyholder.

h. Notwithstanding paragraphs 39.82(2)“*a*” and “*c*,” an insurer is not required to offer an exchange to an individual who is eligible for benefits within an elimination period, who is or who has been in claim status, or who would not be eligible to apply for coverage due to issue age or plan design limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including plan design, underwriting, if applicable, and payment of the required premium.

39.82(3) Policies issued pursuant to this rule shall be considered exchanges and not replacements and are not subject to rule 191—39.11(514D,514G).

39.82(4) A policy received in an exchange after January 1, 2010, is treated as newly issued and is eligible for long-term care partnership policy status. For purposes of applying the Medicaid rules relating to Iowa’s long-term care partnership program, the addition of a rider, endorsement or change in schedule page for a policy may be treated as giving rise to an exchange.

39.82(5) An insurer or a producer offering an exchange shall provide to each prospective applicant a Partnership Program Notice, as required by subrule 39.80(1), and a copy of the Iowa Long-Term Care Partnership Program Consumer Guide, as required by subrule 39.80(2). An insurer issuing or issuing for delivery in Iowa an exchange shall provide the policyholder or certificate holder a Partnership Status Disclosure Notice, as required by subrule 39.80(3).

191—39.83(514H,83GA,HF723) Required policy terms and disclosures.

39.83(1) A policy or certificate designed or marketed as a long-term care insurance policy or certificate must prominently disclose on the schedule page the following statements:

“Some long-term care insurance [policies or certificates] may qualify under the state’s Long-Term Care Partnership Program. Under this Program the [policyholder or certificate holder] may be able to protect some of the [policyholder’s or certificate holder’s] assets from Medicaid spend-down requirements through a feature known as ‘Asset Disregard.’ Nothing in this [policy or certificate] is a guarantee of Medicaid eligibility nor is it a guarantee of any ability to disregard assets for purposes of Medicaid eligibility. If you have questions about whether or not your policy currently qualifies under the Long-Term Care Partnership Program, please contact [the insurer at ###-###-####] and request a long-term care partnership program policy summary.”

39.83(2) If a policyholder or certificate holder or that person’s representative requests a long-term care partnership program policy summary, as provided in subrule 39.83(1), the information the insurer shall provide and the format of the long-term care partnership program policy summary shall be as set forth in Appendix J. An insurer may submit a form substantially similar to Appendix J to the commissioner for approval to use as a substitute for Appendix J.

191—39.84(514H,83GA,HF723) Standards for marketing and suitability. The standards for marketing found in rule 191—39.15(514D,514G) and the suitability requirements of rule 191—39.16(514D,514G) shall apply to the marketing and sale of long-term care partnership policies.

191—39.85(514H,83GA,HF723) Required reports.

39.85(1) Each issuer of partnership-qualified long-term care insurance in this state shall provide regular reports to the Secretary of the United States Department of Health and Human Services in accordance with federal law and regulations and to the Iowa department of human services and the division as provided in Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171. The report shall include information as required by the United States Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Submission of the report to the Iowa department of human services or the division is not required if the issuer files the report through the Centers for Medicare and Medicaid Services filing system.

39.85(2) When a policyholder or certificate holder begins receiving any benefits under a policy, the issuer shall begin providing to the policyholder or certificate holder statements of benefits either monthly or within a reasonable time after benefits have been paid. The statements of benefits shall include, at a minimum, detailed information regarding benefits paid and dates of service.

ITEM 21. Amend **191—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 514D.9₂ and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694 and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

ITEM 22. Strike “agent” wherever it appears in **191—Chapter 39**, Appendices B, C and G, and insert “producer” in lieu thereof.

ITEM 23. Adopt the following new Appendix H in **191—Chapter 39**:

APPENDIX H

Partnership Program Notice
Important Consumer Information Regarding the
Iowa Long-Term Care Partnership Program

Some long-term care insurance policies or certificates sold in Iowa may qualify for the Iowa Long-Term Care Partnership Program (the Partnership Program). The Partnership Program is a

partnership between state government and private insurance companies to assist individuals in planning their long-term care needs. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meets certain state and federal requirements. Long-term care insurance policies or certificates that qualify as partnership policies or certificates may protect the policyholder's or certificate holder's assets through a feature known as "Asset Disregard" under Iowa's Medicaid program.

Asset Disregard means that an amount of the policyholder's or certificate holder's assets equal to the amount of long-term care insurance benefits received under a qualified partnership policy or certificate will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified partnership policy or certificate without affecting the person's eligibility for Medicaid.

All other Medicaid eligibility criteria will apply, and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy or certificate that is not a partnership policy or certificate. Therefore, you should consider if Asset Disregard is important to you and whether a partnership policy or certificate meets your needs. The purchase of a partnership policy or certificate does not automatically qualify you for Medicaid. There are other eligibility requirements you must meet, including resource and income requirements.

What Are the Requirements for a Partnership Policy or Certificate?

In order for a policy or certificate to qualify as a partnership policy or certificate, it must, among other requirements:

- Be issued to an individual on or after January 1, 2010;
- Be issued to an individual who is an Iowa resident when coverage first becomes effective under the policy;
- Be a tax-qualified policy under Section 7702B(b) of the Internal Revenue Code of 1986;
- Meet the following inflation protection requirements:
 - For a person less than 61 years of age – provides compound annual inflation protection
 - For a person at least 61 but less than 76 years of age – provides 3 percent inflation protection
 - For a person at least 76 years of age – inflation protection may be offered but is not required

If you apply and are approved for long-term care insurance coverage, [carrier name] will provide you with written documentation as to whether or not your policy or certificate qualifies as a partnership policy or certificate.

What Could Disqualify a Policy or Certificate as a Partnership Policy or Certificate?

Certain types of changes to a partnership policy or certificate could affect whether or not such policy or certificate continues to be a partnership policy or certificate. If you purchase a partnership policy or certificate and later decide to make *any* changes, you should first consult with your insurance producer or insurance company to determine the effect of a proposed change. If you move to a state that does not have a Partnership Program or does not recognize your policy or certificate as a partnership policy or certificate, you would not receive beneficial treatment of your policy or certificate under the Medicaid program of that state. The information contained in this disclosure is based on current Iowa and federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your policy or certificate under Iowa's Medicaid program.

Additional Information

If you have questions regarding the long-term care insurance policies or certificates, please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Iowa Department of Human Services (Sally Oudekerk, Medicaid Policy Specialist, Bureau of Medical Support, telephone number (515)281-3709, E-mail address soudeke@dhs.state.ia.us).

ITEM 24. Adopt the following new Appendix I in **191—Chapter 39**:

APPENDIX I

Partnership Status Disclosure Notice
Important Information Regarding Your Policy's or Certificate's
Long-Term Care Partnership Status

This disclosure notice is issued in conjunction with your long-term care policy.

Some long-term care insurance policies or certificates sold in Iowa qualify for the Iowa Long-Term Care Partnership Program. Long-term care insurance policies or certificates that qualify as partnership policies or certificates may be entitled to special treatment, in particular as "Asset Disregard" under Iowa's Medicaid program.

Asset Disregard means that an amount of the policyholder's or certificate holder's assets equal to the amount of long-term care insurance benefits received under a qualified partnership policy or certificate will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified partnership policy or certificate without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply, and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy or certificate that is not a partnership policy or certificate. The purchase of a partnership policy or certificate does not automatically qualify you for Medicaid. There are other eligibility requirements you must meet, including resource and income requirements.

Partnership Policy or Certificate Status

Your long-term care insurance policy or certificate is intended to qualify as a partnership policy or certificate under the Iowa Long-Term Care Partnership Program as of your policy's or certificate's effective date.

What Could Disqualify a Policy or Certificate as a Partnership Policy or Certificate?

Certain types of changes to a partnership policy or certificate could affect whether or not such policy or certificate continues to be a partnership policy or certificate. If you purchase a partnership policy or certificate and later decide to make *any* changes, you should first consult with your insurance producer or your insurance company to determine the effect of a proposed change. If you move to a state that does not maintain a Partnership Program or does not recognize your policy or certificate as a partnership policy or certificate, you would not receive beneficial treatment of your policy or certificate under the Medicaid program of that state. The information contained in this disclosure is based on current Iowa and federal laws. These laws may be subject to change. Any change on law could reduce or eliminate the beneficial treatment of your policy or certificate under Iowa's Medicaid program.

Additional Information

If you have questions regarding the long-term care insurance policies or certificates, please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Iowa Department of Human Services (Sally Oudekerk, Medicaid Policy Specialist, Bureau of Medical Support, telephone number (515)281-3709, E-mail address soudeke@dhs.state.ia.us).

ITEM 25. Adopt the following new Appendix J in **191—Chapter 39**:

APPENDIX J

Long-Time Care Partnership Program Policy Summary

1. Name of insured _____
2. Policy/certificate number _____
3. Effective date of coverage _____
4. The policy/certificate was issued in the state of _____
5. Issue age of the insured at the time the coverage was issued _____

6. The policy/certificate was issued ☐ With inflation protection coverage
☐ Without inflation protection coverage
7. The inflation protection coverage is ☐ Simple Inflation ☐ Compound Inflation ☐ None
8. The inflation protection coverage is currently in effect on the coverage ☐ Yes ☐ No
If no, the date inflation protection coverage ceased _____
9. The policy is intended to meet the standards of a tax-qualified long-term care policy
☐ Yes ☐ No
10. The cumulative dollar amount of insurance benefits paid \$ _____
(NOTE: The indicated amount does not include any payments for cash surrender, return of premium death benefits, or waiver of premium, and if joint coverage, the amount is for the indicated insured only.)
11. The total dollar amount of insurance benefits remaining available under the policy \$ _____
12. This information is correct as of the date this form was completed, which date
was _____
13. The name, telephone number and E-mail address of the person completing this form

Name

Telephone Number

E-mail Address

ITEM 26. Amend rule 191—72.2(249G) as follows:

191—72.2(249G) Applicability and scope. The requirements of this chapter apply to any long-term care insurance policy or certificate authorized for sale by the division of insurance as qualifying under the Iowa long-term care asset preservation program under Iowa Code chapter 249G. No long-term care insurance policy or certificate which has been approved by the division of insurance as a certified long-term care insurance policy or certificate under this chapter may be advertised, solicited, or issued for delivery in this state after December 31, 2009.

[Filed 10/16/09, effective 12/9/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.